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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

DOCKETED

OCT 19 2010

COMMISSIONERS

KRISTIN K. MAYES - Chairman
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PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

2010 OCT 19 P 2:29

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

DOCKETED BY

IN THE MATTER OF:

LYNN A. WHEELER

COMPLAINANT,

V.

ARIZONA PUBLIC SERVICE COMPANY,

RESPONDENT.

DOCKET NO. E-01345A-10-0201

PROCEDURAL ORDER
SETTING A HEARING

BY THE COMMISSION:

On May 17, 2010, Lynn A. Wheeler ("Complainant") filed with the Arizona Corporation Commission ("Commission") a formal complaint ("Complaint") against Arizona Public Service Company ("APS"), alleging that APS provided unreasonably low electrical power to Complainant's motel and irreparably damaged the motel's heating/air conditioning units.

On June 14, 2010, APS filed an Answer to the Complaint, generally denying the allegations and requesting that the Commission dismiss the Complaint with prejudice.

On August 18, 2010, by Procedural Order, APS' request to dismiss the Complaint was denied and a procedural conference was scheduled for September 8, 2010, to discuss the procedural schedule in this matter.

On September 8, 2010, the procedural conference was held as scheduled. APS appeared through counsel and Mr. Wheeler appeared his own behalf. During the proceeding conference, hearing dates and other procedural deadlines were discussed.

The Commission now issues this Procedural Order governing the procedural schedule for this matter.

1 IT IS THEREFORE ORDERED that the **hearing** in the above-captioned matter shall
2 commence on **January 26 and 27, 2011, at 10:00 a.m.**, or as soon thereafter as is practicable, at the
3 Commission's offices, 1200 West Washington Street, Hearing Room 100, Phoenix, Arizona 85007.

4 IT IS FURTHER ORDERED that **Complainant and APS** may conduct discovery through
5 **January 14, 2011.**

6 IT IS FURTHER ORDERED that discovery shall be permitted by law and the rules and
7 regulations of the Commission, except that: for discovery requests made through **January 14, 2011**,
8 any objection to discovery requests shall be made within three days¹ of receipt and responses to
9 discovery requests shall be made within seven days of receipt, the response time may be extended by
10 mutual agreement of the parties involved if the request requires an extensive compilation effort.

11 IT IS FURTHER ORDERED that, in the alternative to filing a written motion to compel
12 discovery, any party seeking discovery may telephonically contact the Commission's Hearing
13 Division to request a date for a procedural hearing to resolve the discovery dispute; that upon such a
14 request, a procedural hearing will be convened as soon as practicable; and that the party making such
15 a request shall contact all other parties to advise them of the hearing date and shall at the procedural
16 hearing provide a statement confirming that the other parties were contacted.²

17 IT IS FURTHER ORDERED that **Complainant and APS** shall file a joint Status Report
18 discussing any issues that have been resolved on or before **January 19, 2011.**

19 IT IS FURTHER ORDERED that any Responses to Motions shall be filed within five days of
20 the Motion.

21 IT IS FURTHER ORDERED that any Motions which are filed in this matter and which are
22 not ruled upon by the Commission within 20 days of the filing date of the Motion shall be deemed
23 denied.

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27 ¹ "Days" means calendar days.

28 ² The parties are encouraged to attempt to settle discovery disputes through informal, good-faith negotiations before seeking Commission resolution of the controversy.

1 IT IS FURTHER ORDERED that the **direct testimony and associated exhibits** to be
2 presented at hearing **by Complainant** shall be reduced to writing and filed on or before **November**
3 **19, 2010.**

4 IT IS FURTHER ORDERED that the **rebuttal testimony and associated exhibits** to be
5 presented at hearing **by APS** shall be reduced to writing and filed on or before **December 20, 2010.**

6 IT IS FURTHER ORDERED that the **surrebuttal testimony and associated exhibits** to be
7 presented at hearing **by Complainant** shall be reduced to writing and filed on or before **January 7,**
8 **2011.**

9 IT IS FURTHER ORDERED that any **rejoinder testimony and associated exhibits** may be
10 presented during the hearing.

11 IT IS FURTHER ORDERED that any **objections to testimony or exhibits** that have been
12 filed as of January 7, 2011, shall be made on or before **January 14, 2011.**

13 IT IS FURTHER ORDERED that any **substantive corrections, revisions, or supplements**
14 **to the pre-filed testimony** shall be reduced to writing and filed no later than **January 21, 2011.**

15 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized
16 Communications) applies to this proceeding.

17 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules
18 of the Arizona Supreme Court and A.R.S. § 40-243 with respect to practice of law and admission *pro*
19 *hac vice.*

20 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
21 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the
22 Rules of Arizona Supreme Court). Representation before the Commission includes the obligation to
23 appear at all hearings and procedural conferences, as well as all Open Meetings for which the matter
24 is scheduled for discussion, unless counsel has previously been granted permission to withdraw by
25 the Administrative Law Judge or the Commission.

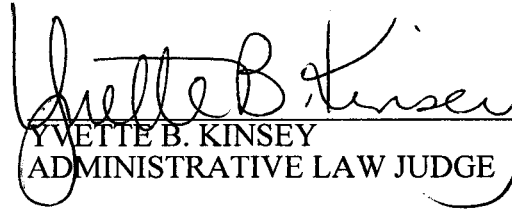
26 ...

27 ...

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1 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,
2 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at
3 hearing.

4 DATED this 19th day of October, 2010.

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6
7 
YVETTE B. KINSEY
ADMINISTRATIVE LAW JUDGE

8 Copies of the foregoing mailed/delivered
9 this 19th day of October, 2010, to:


10 Lynn A. Wheeler
11 JALLL LLC
12 902 Leisure World
13 Mesa, AZ 85206

14 Thomas A. Mumaw
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17 400 North 5th Street, M/S 9708
18 Phoenix, AZ 85004

19 Janice Alward, Chief Counsel
20 Legal Division
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23 By: 
24 Debra Broyles
25 Secretary to Yvette B. Kinsey
26
27
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